

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3 Ada Berrios-Ortiz,
4 Plaintiff,

5 v.

6 Ex-Lax, Inc., et al.,
7 Defendant.

Civil No. 05-1415 (GAG)

8 **OPINION AND ORDER**

9 This matter is before the court on plaintiff's motion for reconsideration. See Docket No. 50.
10 Specifically, plaintiff moves the court to reconsider its ruling dismissing the suit for being time
11 barred because the court purportedly disregarded her equitable tolling argument. The court
12 disagrees. Plaintiff's argument was fully considered and found to be unpersuasive.

13 The baseline rule is that time limitations are important in discrimination cases and federal
14 courts should employ equitable tolling sparingly. See Bonilla v. Muebles J.J. Alvarez, Inc., 194 F.3d
15 275, 278 (1st Cir. 1999). Notwithstanding, the filing period will be tolled if an employer "actively
16 misleads" the employee or where the employee had "actual or constructive knowledge of the
17 complaint procedures." Mercado v. Ritz-Carlton, 410 F.3d 41, 47 – 48 (1st Cir. 2005)

18 The court found that plaintiff applied for and was granted a company-paid graduate degree
19 program in Human Resources. See Docket No. 22, Exh. C (Novartis letter to plaintiff). The court
20 also found that plaintiff's masters degree program started in January 2001 and ended in December
21 2002. See Docket No. 36, Exh. B (plaintiff's deposition). As part of the program, plaintiff took
22 courses related to employment discrimination, including Title VII and ADEA. Id. Most notably,
23 however, the court found that as early as December 27, 2000, plaintiff mentioned feeling
24 discriminated against by Ex-Lax's decision to eliminate her position. See Docket No. 31, Exh. 2
25 (plaintiff's letter to Richard Maeir, Novartis Controller). Finally, plaintiff herself testified in her
26 deposition that she wanted to wait to sign an acceptance form for the Accounts Payable position
27 because she wanted to consult with her attorney. See Docket No. 36, Exh. B.

28 As noted in the original order, this was sufficient to demonstrate actual, or in the least,

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1 constructive knowledge of plaintiff's rights. Therefore, plaintiff's motion to reconsider is **DENIED**.

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3 **SO ORDERED.**

4 In San Juan, Puerto Rico this 2nd day of October 2006.

5
6 */s/ Gustavo A. Gelpi*

7 GUSTAVO A. GELPI
8 United States District Judge
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